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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 JOSEPH RHODES,

7 Plaintiff,

8 v.

9 CLARK COUNTY,

10 Defendants.

Case No. C19-5440 RBL-TLF

ORDER SETTING NEW BRIEFING
SCHEDULE

11 This matter comes before the Court on Defendant Clark County's motion to dismiss. Dkt.
12 26. This matter has been referred to the undersigned Magistrate Judge. *Mathews, Sec'y of H.E.W.*
13 *v. Weber*, 423 U.S. 261 (1976); 28 U.S.C. § 636(b)(1)(B); Local Rule MJR 4(a)(4). Plaintiff is
14 proceeding *pro se* and *in forma pauperis*, and has brought these claims against several
15 defendants under 42 U.S.C. § 1983. Plaintiff has not filed a response to defendant Clark
16 County's motion to dismiss.

17 The Ninth Circuit Court of Appeals requires pro se prisoner-plaintiffs to be provided
18 notice of what is required to oppose a motion to dismiss or motion for summary judgment.
19 *Woods v. Carey*, 684 F.3d 934, 935, 940-41 (9th Cir. 2012). This notice "must be served
20 concurrently with motions to dismiss and motions for summary judgment." *Id.* at 935. Defendant
21 Clark County did not serve plaintiff with notice consistent with *Woods* and in accordance with
22 the holdings in *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998) and *Wyatt v. Terhune*, 315 F.3d
23 1108 (9th Cir. 2003).

1 Although plaintiff was provided with *Woods* notice in the Court's Order Directing
2 Service (Dkt. 7) as well as motions previously filed by the other defendants in this matter (Dkts.
3 9, 21), the Ninth Circuit has mandated that notice must be given at the time of filing of the
4 motion. *Woods*, 684 F.3d at 940-41. Out of an abundance of caution, therefore, the Court finds
5 that a new briefing schedule, to give plaintiff proper notice and allow for responsive briefing, in
6 accordance with *Woods* is appropriate.

7 Accordingly, it is ORDERED:

8 (1) Defendant Clark County is directed to serve plaintiff with proper notice of what is
9 required to oppose a motion to dismiss or motion for summary judgment pursuant to *Woods* and
10 *Rand* by no later than November 15, 2019.

11 (2) Plaintiff may file a response opposing Defendant Clark County's motion to
12 dismiss (Dkt. 26) no later than November 29, 2019.

13 (3) If plaintiff files a response, Defendant Clark County may file a reply no later than
14 December 13, 2019.

15 (4) The Clerk shall send a copy of this Order to plaintiff and counsel for Defendant
16 Clark County.

17 (5) The Clerk is directed to re-note all pending motions (Dkts. 8, 20, 26) for
18 consideration on December 13, 2019.

19 Dated this 1st day of November, 2019.

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Theresa L. Fricke
23 United States Magistrate Judge
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